

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Examiner : Gregory J. Strimbu
Art Unit : 3634
Applicants : Philip O. Gerard
Serial No. : 10/042,738
Filing Date : May 24, 2002
For : WINDOW FRAME WITH BOTH TEMPORARY AND
PERMANENT CONNECTIONS

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REPLY BRIEF

The Examiner makes a new additional argument in the Examiner's Answer. This Reply Brief responds to that argument.

I. Hopper Does Not Disclose, Teach, Suggest, or Contemplate Rotating a Frame Half

The Examiner asserts that Hopper discloses rotating one of the frame halves in its own plane between a ship orientation and an install orientation, on the basis that "since applicant has failed to define any element of the invention which the second frame half is rotated with respect to, the second frame half can be moved between the ship and install orientations by simply rotating the whole assembly in its own plane."

The Examiner makes this assertion for the first time in the Examiner's Answer, despite the extensive prosecution history of this continuation application and its parent application. The Applicant respectfully disagrees with the Examiner's assertion.

First, Hopper does not suggest or contemplate -- let alone teach -- 1) separate "ship" and "install" orientations or 2) rotating either or both frame halves between such two orientations. The only motivation for the Examiner's assertion is an improper attempted

hindsight reconstruction of the present invention. There simply is no support or motivation, either in Hopper or the art, for the Examiner's assertion.

Second, the claim must be read in the context of the specification and the extensive prosecution history of this continuation application and its parent. For example, the specification states at page 2, lines 20-22 that:

The frame halves can be oriented *with respect to one another* in either a "ship" orientation or an "install" orientation. The frame halves can be moved between the two orientations by rotating *one of the frame halves* by 180 degrees." (Emphasis added).

When properly read within the context of the specification and prosecution history, it is abundantly clear that the rotation of one frame half is respect to the other frame half.

For the reasons stated in this Reply Brief and the previous Appeal Brief, the Applicant remains of the opinion that the Examiners' rejections are improper and should be reversed.

Respectfully submitted,

PHILIP O. GERARD

By: Warner Norcross & Judd LLP

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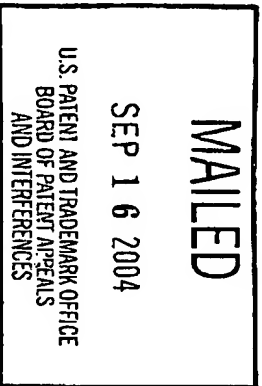
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Paper No: 13
Appeal No: 2004-2256
Application: 10/042,738
Appellant: Philip O. Gerard



Board of Patent Appeals and Interferences Docketing Notice

Application 10/042,738 was received from the Technology Center at the Board on August 17, 2004 and has been assigned Appeal No: 2004-2256.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: March 18, 2004
Reply Brief filed on: NONE
Request for Hearing filed on: NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

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By order of the Board of Patent Appeals and Interferences

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Appeal No. 2004-2256

Attached is a copy of our Reply Brief (in triplicate) which we are resending to you in response to a Docketing Notice mailed September 16, 2004. This Reply Brief was originally mailed to you on August 6, 2004.

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